

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 142 - SB 137

March 31, 2011

SUMMARY OF BILL: Increases the penalty, from a Class A misdemeanor to a Class E felony, for concealing, harboring, shielding from detection, transporting, or any attempt thereof, persons defined in this state as an "illegal alien." Subjects certain property utilized in committing such offenses to judicial forfeiture. Classifies a violation resulting in serious bodily injury to any person as a Class B felony and a violation resulting in the death of another as a Class A felony. Defines "commercial air carrier," "common carrier," and "illegal alien." Exempts employees of institutions required by federal law to provide services to illegal aliens or to a common carrier or commercial air carrier from this section.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$9,300/Incarceration*

Assumptions:

- It is currently a Class A misdemeanor for a person, for the purpose of commercial advantage or private financial gain, to transport or cause to be transported into this state an individual who the person knows or should have known has illegally entered or remained in the United States. Such offense is punishable by fine only of \$1,000 per person illegally transported. Such offense exempts common carriers and establishes a defense from prosecution for individuals being transported for religious purposes.
- The proposed bill does not include the defense to prosecution for individuals transported for religious purposes.
- According to the Administrative Office of the Courts, there have been zero convictions in the trial courts under current law since its effective date of July 1, 2007. Statistics are not maintained from general sessions courts.
- The Department of Correction (DOC) estimates one additional offender every three years will receive a Class E felony. According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every three years.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years (463.87 days) at a cost of \$28,119.80 (\$60.62 x 463.87 days).

- The annualized time served per conviction is 153.08 days (0.33 annual number of convictions x 463.87 days served). The annualized cost per conviction is \$9,279.71 (\$60.62 x 153.08 days).
- Due to the absence of current convictions, the estimate does not assume any additional incarceration costs as a result of the Class B or Class A offenses.
- The increase in classification for some offenses from a Class A misdemeanor to a Class E felony will result in a slight decrease in the number of prosecutions in general sessions courts. The decrease in revenue and expenditures to local government will not be significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc